

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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COMPLETE TITLE OF CASE:

CLAUDIA LEE & ASSOCIATES,

Appellant

v.

KANSAS CITY, MISSOURI BOARD OF ZONING ADJUSTMENT,

Respondent

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DOCKET NUMBER WD77928

DATE: APRIL 12, 2016

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Appeal From:

Circuit Court of Jackson County, MO  
The Honorable James Dale Youngs, Judge

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Appellate Judges:

Division One  
Alok Ahuja, P.J., Anthony Rex Gabbert, J. and James F. Kanatzar, Sp. J.

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Attorneys:

M. Margaret Sheahan Moran, Kansas City, MO, Counsel for Respondent

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Attorneys:

James Allen Kessinger, Kansas City, MO Counsel for Appellant

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**MISSOURI APPELLATE COURT OPINION SUMMARY  
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**CLAUDIA LEE & ASSOCIATES,**

**Appellant,**

**v.**

**KANSAS CITY, MISSOURI BOARD OF  
ZONING ADJUSTMENT,**

**Respondent.**

**WD77928**

**Jackson County**

Before Division One Judges: Alok Ahuja, P.J., Anthony Rex Gabbert, and James F. Kanatzar, Sp. J.

Claudia Lee & Associates (CLA) appeals from the circuit court's judgment in favor of the Kansas City, Missouri Board of Zoning Adjustment (BZA) on CLA's First Amended Petition for Writ of Certiorari; for Judicial Review; and for Declaratory and Injunctive. CLA contends that: (1) the circuit court erred in approving the BZA's finding that CLA was in violation of the Kansas City Zoning and Development Code Section 88-445-14-B.5(g)(1), for CLA's sign remaining "blank" for a period of 90 days arguing that the BZA failed to enter Findings and Conclusions, failed to enter the ordinance in evidence or provide CLA with a copy of the ordinance, and the new ordinance had not yet gone into effect; (2) the BZA erred in finding that CLA was in violation of the Kansas City Zoning and Development Code 88-445-14-B.5(g)(1) for the billboard remaining "blank" for a period of ninety days because the ordinance does not define a blank sign as a single side of the sign, and the ordinance provides for a thirty day period to cure, and pursuant to the plain and ordinary interpretation of the ordinance at least one side of the back to back, double-faced sign has always been in compliance, and/or appellant should have been given at least thirty days to remedy a violation; (3) the BZA erred in finding that no notice to CLA of the violation was necessary before ordering CLA to remove the billboard, because CLA was unaware of the violations due to inadvertence and publication of the wrong version of the ordinance and CLA took immediate action to abate the violation upon its discovery; (4) the BZA erred by not allowing CLA to continue in CLA's alleged nonconforming use and; (5) the circuit court erred in dismissing CLA's open records act claim.

**REVERSED IN PART AND AFFIRMED IN PART**

**Division One holds:**

- (1) Because we are reversing on other grounds, we need not address CLA's claims with regard to the BZA's failure to enter Findings and Conclusions, failure to enter the

ordinance into evidence or provide CLA with a copy of the ordinance, and the alleged ineffectiveness of the ordinance.

- (2) The circuit court erred in affirming the BZA's determination that CLA was not entitled to a thirty-day cure period pursuant to 88-445-14-B.7(c)(1).
- (3) Because we are reversing on other grounds, we need not address CLA's claims that it was unaware of violations due to inadvertence and publication of the wrong version of the ordinance.
- (4) Because we are reversing on other grounds, we need not address CLA's claim that CLA must be allowed to continue in CLA's alleged nonconforming use following the adoption of the ordinance.
- (5) The circuit court did not err in dismissing CLA's open records act claim because CLA failed to plead sufficient facts to show a purposeful violation of Chapter 610 and any other claims CLA may have had regarding Chapter 610 are now moot.

Opinion by Anthony Rex Gabbert, Judge

Date: 4/12/16

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**THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.**